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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,258	04/18/2000	Jeffrey M. Jahn	00 P 7577 US	1761
7590	08/02/2005		EXAMINER DUNCAN, MARC M	
Siemens Corporation Intellectual Property Department 186 Wood Avenue South Iselin, NJ 08830			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/551,258

Applicant(s)

JAHN ET AL.

Examiner

Marc Duncan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-15 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of the Claims***

Claims 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 2, 3, 4, 5, 10, 11, 12, 18, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lou et al. (2005/0030907) in view of Tentij et al. (6,513,129) and further in view of Lewis (6,205,563).

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lou-Tentij-Lewis combination as applied to claims 5 and 15 above.

Claims 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lou-Tentij-Lewis combination as applied to claims 7 and 12 above, and further in view of Landan (2002/0184575).

Claims 15 and 16 are objected to.

### ***Claim Objections***

Claims 15 and 16 are objected to because of the following informalities: Claim 15 recites the limitation, "the alarm report," in line 1. There is no antecedent basis for this limitation. Claim 16 recites the limitations, "the out of compliance network operating event" and "the event," in lines 3-5. There is no antecedent basis for these limitations. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 18-20 are not limited to tangible embodiments. In view of Applicant's disclosure, Specification page 15, lines 4-7, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., the hard disk or tape described on page 14) and intangible embodiments (e.g., a computer data signal embodied in a carrier wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 3, 4, 5, 10, 11, 12, 18, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lou et al. (2005/0030907) in view of Tentij et al. (6,513,129) and further in view of Lewis (6,205,563).

Regarding claim 2:

Lou teaches detecting fault conditions indicated from data flow between a local communication network and a data network in Fig. 1, paragraph 0010 lines 4-8, paragraph 0013 and paragraph 0024 lines 10-11. The NMS of Lou performs fault and performance management based on the control of all network communications and data flow management between the networks. The networks of Lou are clearly a local communication network as evidenced by reference number 110 of Figure 1 and a data network as evidenced by reference number 100 of Figure 1.

Lou does not explicitly teach determining whether or not each of the detected fault conditions indicates a reportable network fault, wherein the reportable network fault is limited to only those detected faults that present a clear and present risk of causing substantial downtime.

Lou does not explicitly teach generating an alarm report based upon the reportable network fault.

Lou does not explicitly teach distributing the alarm report based upon a distribution list in real time.

Lou does, however, teach fault and performance management using a network management system in Figure 1 – “102” and paragraph 0013.

Tentij teaches determining whether or not each of the detected fault conditions indicates a reportable network fault (col. 10 lines 9-17, col. 14 lines 7-12 and col. 15 lines 12-18), wherein the reportable network fault is limited to only those detected faults that present a clear and present risk of causing substantial downtime (col. 10 lines 9-17,

col. 14 lines 7-12, col. 15 lines 12-18 and col. 18 lines 41-45 – the Tentij reference clearly teaches a case where only alerts of critical and major severity will be reported by teaching the ability to suppress alerts of any level desired. A fault of critical or major severity would be a fault that presents a risk of substantial downtime).

Tentij teaches generating an alarm report based upon the reportable network fault in col. 7 lines 61-67 and col. 10 lines 51-56.

Tentij teaches distributing the alarm report based upon a distribution list in real time in col. 10 lines 32-37.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the network management system performing fault management as taught by Lou with the fault management system of Tentij.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because Lou explicitly teaches a need for a fault management system and Tentij meets that need with a fault management system that is easier to implement and modify and more efficient than previous fault management systems (see Tentij col. 1 lines 25-31).

The Lou-Tentij combination does not explicitly teach generating a solution recommendation based upon the reportable network fault. The combination does, however, teach performing alternative events and managing faults.

Lewis explicitly teaches generating a solution recommendation based upon the reportable network fault in col. 2 lines 42-45. Generating and performing corrective actions is clearly a teaching of generating a solution recommendation.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the network management system performing fault management as taught by the combination with the corrective actions suggested and implemented by the fault management system of Lewis.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because Lewis teaches that the system disclosed in Lewis provides for automation and increases in scalability (see Lewis col. 1 lines 18-20 and col. 2 lines 4-5).

Regarding claim 3:

The Lou-Tentij-Lewis combination teaches logging the reportable network fault to an event logger in Tentij col. 10 lines 57-62.

Regarding claim 4:

The Lou-Tentij-Lewis combination teaches monitoring the data flow between said local communication network and said data network in Lou Fig. 1, paragraph 0010 lines 4-8, paragraph 0013 and paragraph 0024 lines 10-11.

The Lou-Tentij-Lewis combination teaches generating a fault signal automatically upon detection of an out of compliance network event in Tentij col. 3 lines 3-8. An alarm is a fault signal based on an out of compliance network event.

The Lou-Tentij-Lewis combination teaches automatically sending the fault signal to a fault detector in Tentij col. 3 lines 3-8.

The Lou-Tentij-Lewis combination teaches automatically logging the out compliance to the event logger in Tentij col. 10 lines 57-62.

Regarding claim 5:

The Lou-Tentij-Lewis combination teaches determining whether or not the out of compliance event is included in a reportable fault list in Tentij col. 9 lines 30-38.

The Lou-Tentij-Lewis combination teaches designating the event as a reportable fault when the event is a hardware or software failure determined to be included in the reportable fault list in Tentij col. 9 lines 30-38. Hardware and software failures are events that would generate alarms in the system of the combination and are therefore necessarily included in the events in the combination.

Regarding claim 10:

The Lou-Tentij-Lewis combination teaches a telephony intranet server (TIS) coupling a private communication network to a data network in a distributed communication network (Lou Figure 1 – “102” and Tentij – Abstract. Lou teaches a bidirectional network management system that performs fault management and Tentij teaches that said fault management system is a gateway, which therefore meets the reasonable definition of a TIS as provided in light of applicant’s specification), said TIS monitoring the flow of data between said private communications network and said data network (Lou Fig. 1, paragraph 0010 lines 4-8, paragraph 0013 and paragraph 0024 lines 10-11. The NMS of Lou performs fault and performance management based on the control of all network communications and data flow management between the networks. The networks of Lou are clearly a local communication network as evidenced by reference number 110 of Figure 1 and a data network as evidenced by reference number 100 of Figure 1).



The Lou-Tentij-Lewis combination teaches a fault detector unit in said TIS, said fault detector unit detecting faults indicated in said flow of data in Lou Fig. 1, paragraph 0010 lines 4-8, paragraph 0013 and paragraph 0024 lines 10-11. Faults are detected in the apparatus, therefore a fault detector is necessarily present.

The Lou-Tentij-Lewis combination teaches a fault analyzer (Tentij col. 9 lines 30-38. The processor that processes the control object is clearly read on by the fault analyzer of the instant claims) coupled to the fault detector unit arranged to ascertain whether or not each detected network operation fault is a reportable network operation fault (col. 10 lines 9-17, col. 14 lines 7-12 and col. 15 lines 12-18) wherein the reportable network operation fault is limited to only those detected faults that present a clear and present risk of causing substantial downtime (col. 10 lines 9-17, col. 14 lines 7-12, col. 15 lines 12-18 and col. 18 lines 41-45 – the Tentij reference clearly teaches a case where only alerts of critical and major severity will be reported by teaching the ability to suppress alerts of any level desired. A fault of critical or major severity would be a fault that presents a risk of substantial downtime).

The Lou-Tentij-Lewis combination teaches an alarm notice generator unit coupled to the fault analyzer configured to generate a reportable network fault alarm notice based upon said each reportable network operation fault in Tentij col. 10 lines 51-56.

The Lou-Tentij-Lewis combination teaches a fault solution analyzer unit coupled to the alarm notice generator unit arranged to generate a fault solution report based

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upon a fault analysis in Lewis col. 2 lines 42-45. Generating and performing corrective actions is clearly a teaching of generating a solution recommendation.

The Lou-Tentij-Lewis combination teaches a display unit arranged to display the alarm notice and the fault solution report in Tentij Figure 7 – “445.”

The motivation for the combination of Lou-Tentij-Lewis was detailed in claim 1 and will not be repeated here for sake of clarity and brevity.

Regarding claim 11:

The Lou-Tentij-Lewis combination teaches an event logger coupled to the fault analyzer unit arranged to record each reportable network operation fault in Tentij col. 10 lines 57-62.

Regarding claim 12:

The Lou-Tentij-Lewis combination teaches wherein the display unit is part of a fault report communication device that provides real time notification of the reportable network operation fault to a user in Tentij Figure 7 – “445” and col. 10 lines 52-54.

Regarding claim 18:

The claim is rejected as the computer readable medium containing computer code for performing the method of claim 1.

Regarding claim 19:

The claim is rejected as the computer readable medium containing computer code for performing the method of claim 1.

The Lou-Tentij-Lewis combination further teaches storing network operating data, said network operating data providing operating characteristics indicating an acceptable

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operating domain in Tentij col. 4 lines 61-67. In order to determine whether a premium level of service is being met, an acceptable operating domain must necessarily be defined and stored for comparison purposes.

The Lou-Tentij-Lewis combination also teaches distributing an alarm report responsive to a hardware or software failure in Tentij col. 10 lines 51-56. The failures that can cause alerts are inclusive of hardware and software failures and therefore hardware and software failures are taught by the combination.

Regarding claim 20:

The Lou-Tentij-Lewis combination teaches automatically generating a fault signal responsive to detecting an out of compliance network event indicated in stored said network operating data in Tentij col. 3 lines 3-8. An alarm is a fault signal based on an out of compliance network event.

The Lou-Tentij-Lewis combination teaches automatically sending the fault to a fault detector in Tentij col. 3 lines 3-8.

The Lou-Tentij-Lewis combination teaches logging the out of compliance event to the event logger in Tentij col. 10 lines 57-62.

Claims 6, 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lou-Tentij-Lewis combination as applied to claims 5 and 15 above.

Regarding claims 6 and 15:

The Lou-Tentij-Lewis combination teaches wherein the alarm report includes fault type and location of malfunction (Tentij col. 9 line 53 – Alarm Type and Probable

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Cause) and the distribution list includes destination addresses associated with the reportable fault (Tentij col. 10 lines 32-34).

The combination does not explicitly teach the alarm report including a timestamp. The combination does, however, teach generating alarm reports in the form of emails and trouble tickets.

The examiner takes official notice that the use of timestamps in emails and trouble tickets was well-known and widely used by those of ordinary skill in the art at the time of invention.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine a timestamp with the Lou-Tentij-Lewis combination's teaching of email and trouble tickets.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because many email protocols and the majority of trouble ticketing methods present at the time of invention inherently included timestamps. Timestamps allow the receiver of the email or trouble ticket to know what time the email or trouble ticket was generated and further allow functions such as sorting, correlating, etc. to be performed easily.

Regarding claim 7:

The Lou-Tentij-Lewis combination teaches determining a fault report recipient based upon the distribution list in Tentij col. 10 lines 32-34.

The Lou-Tentij-Lewis combination teaches sending the fault report to the determined fault report recipient by way of a fault report communication device in Tentij col. 10 lines 32-34.

Claims 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lou-Tentij-Lewis combination as applied to claims 7 and 12 above, and further in view of Landan (2002/0184575).

Regarding claims 8 and 13:

The Lou-Tentij-Lewis combination teaches wherein the fault report communication device is an email server (Tentij col. 9 lines 32-34) or a display console (Figure 1 – “445”).

The Lou-Tentij-Lewis combination does not explicitly teach the fault communication report device being a pager or a telephone. The Lou-Tentij-Lewis combination does, however, teach a contact object that contains several possibly ways of contacting a user in Tentij col. 10 lines 35-37.

Landan explicitly teaches the fault communication report device being a pager or a telephone in paragraph 0032.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the pager and telephone of Landan with the contact object of Lou-Tentij-Lewis combination.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because Landan teaches that these methods of alerting a user to an alarm condition allow the user to be notified in real-time in paragraph 0032.

Regarding claim 14:

The Lou-Tentij-Lewis-Landan combination teaches wherein the distributed communication network is a telephony over LAN (ToL) network in Lou paragraph 0002.

***Response to Arguments***

Applicant's arguments with respect to claims 2-8, 10-16 and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Duncan whose telephone number is 571-272-3646. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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